

PT 97-31  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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BAPTIST STUDENT FOUNDATION	)		
AT THE U. OF I.	)		
Applicant	)		
	)	Docket #	See attached
v.	)		
	)	Parcel Index #	Exhibit A
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Bruce D. Strom appeared on behalf of the Baptist Student Foundation at the University of Illinois.

Synopsis:

The hearings in these matters were held on April 11, 1996, and May 24, 1996, at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, to determine whether or not the Champaign County Parcel Index Nos. listed on Exhibit A attached to the Notice of Decision in this matter, qualified for exemption from real estate taxation for the 1994 assessment year.

Rev. Richard Gibbons, who is the Director of the Baptist Student Foundation at the University of Illinois (hereinafter referred to as the "Applicant") and also the pastor of the University Baptist Church was present and testified on behalf of the applicant.

The issues in these matters include first, whether the applicant was the owner of these parcels during the 1994 assessment year; secondly, whether the applicant is a religious and charitable organization; and lastly, whether the applicant used these parcels for religious, school, charitable, and/or exempt purposes during the 1994 assessment year. Following the submission of all of

the evidence and a review of the record, it is determined that the applicant owned these parcels during the 1994 assessment year. It is further determined that the applicant is a religious and charitable organization. Finally, it is determined that the applicant used these parcels for religious, school, charitable, and/or exempt purposes during the 1994 assessment year. These parcels, then qualify for exemption for the 1994 assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in these matters, namely that these parcels did not qualify for exemption during the 1994 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 5B.

2. At the hearing held on April 11, 1996, concerning Docket No. 94-10-81, the applicant's attorney moved that Docket Nos. 94-10-82, 94-10-83, and 94-10-87, be consolidated with Docket No. 94-10-81 for the purposes of hearing. After reviewing the documents in this matter, the Administrative Law Judge allowed the motion for consolidation and continued the hearing to May 24, 1996. (Tr. pp. 6-12)

3. The hearing held on May 24, 1996, concerned whether or not each of the four parcels listed on Exhibit A qualified for exemption.

4. Docket No. 94-10-81 concerns Champaign County Parcel Index No. 46-21-18-153-013, which is improved with a paved parking lot. (Dept. Ex. No. 1) Docket No. 94-10-82 concerns Champaign County Parcel Index No. 46-21-18-153-015, which is improved with Stratford House, a residence for undergraduate women. (Dept. Ex. No. 1F) Docket No. 94-10-83 concerns Champaign County Parcel Index No. 46-21-18-153-004, which is improved with Sutton Place, which is a coed residence for graduate students. (Dept. Ex. Nos. 1R & 1AA) Docket No. 94-10-87 concerns Champaign County Parcel Index No. 46-21-18-153-012, which is improved Koinonia, a residence for undergraduate men. (Dept. Ex. No. 1AD).

5. Based on a review of the deeds to each of the above parcels, which are included in the record in these matters, I find that the applicant owned each of these parcels during the entire 1994 assessment year. (App. Ex. No. 3, Dept. Ex. Nos. 1H, 1S, & 1AE)

6. The applicant was incorporated pursuant to the "General Not For Profit Corporation Act" of Illinois, on July 7, 1951. The purpose clause of those articles of incorporation provides as follows:

The purpose for which this corporation is formed is to provide a church home and social center for Baptist students while at the University, to win students to Christ and His Church, and to train future Baptist leaders through a religious education program which will supplement the studies which students get in a State University. (Dept. Ex. No. 1B)

7. The applicant was formed to reach out to students at the University of Illinois with the intended purpose of continuing their religious education, as well as developing their leadership skills. (Tr. p. 25)

8. The applicant fulfills these purposes in two ways. First, by operating the University Baptist Church, with a worshipping congregation, educational bible studies and the various ministries of a church. Approximately 80% of the University Baptist Church congregation are university students. In addition, a minimum of 4 of the 12 deacons of the church are required to be students. The second activity of the applicant is the housing ministry, which consists of three cooperative multiracial university residences, namely Stratford House, Sutton Place, and Koinonia. (Tr. p. 26)

9. In the undergraduate residences, Stratford House and Koinonia, there are regular bible studies and devotions held in the house. In addition in the undergraduate houses, freshmen are assigned big brothers or big sisters as prayer partners and to help support their lives spiritually as well as academically. (Tr. pp. 47 & 68)

10. The residents of the three houses are not all Christians but they are required to abide by the house rules, which are "Christian environmental rules". (Tr. p. 55)

11. The applicant has no capital, capital stock or shareholders. (Tr. p. 32)

12. The applicant derives its funds from student contracts for room and board, parking fees, and charitable contributions. (Tr. pp. 78 & 96, Appl. Ex. Nos. 7, 8, & 9)

13. The costs to live in these three residences are among the lowest on the University of Illinois campus. These residences are cooperative residences, with the student residents doing the cooking and the cleaning. (Tr. p. 53)

14. The applicant also provides scholarships and student assistance to the residents in cases of need. (Tr. pp. 56 & 57)

15. On January 1, 1994, Koinonia an undergraduate men's residence was under construction on Champaign County Parcel No. 46-21-18-153-012. This residence was completed and occupied at the beginning of the fall semester during September, 1994. (Tr. p. 62)

16. The University does not have enough residence halls for all of the undergraduate students. In addition to the University residence halls, fraternities and sororities, there is a system of privately owned certified housing on the campus which meets the University standards for undergraduate students providing the right kind of an educational environment and also support services. Both Stratford House and Koinonia are certified housing and are listed in the certified housing brochure. (Tr. p. 38, Appl. Ex. 21)

17. Each of these undergraduate houses provides special quiet study rooms, as well as various student aids, that are available for the residents. (Tr. pp. 44 & 65)

18. Certified housing facilities, such as Stratford House and Koinonia, are required to give preference to registered full time University of Illinois students. Occasionally, a resident of one of these houses may have grade trouble, necessitating a temporary transfer to Parkland College or may need a special course which is only offered at Parkland College. The applicant must

then seek the permission of the certified housing office to allow the student to remain in its facility. (Tr. pp. 81 & 82)

19. The University, through the certified housing program, must approve any staff person who resides in the certified housing facilities or is on the staff of such facilities. The certified housing office provides training for these persons. Also, these persons are required to attend monthly meetings conducted by the certified housing office. The certified housing office also provides fire and safety inspections for the houses as well as kitchen inspections. (Tr. pp. 81-83)

20. Sutton Place, the coed graduate housing facility, is operated somewhat differently than Stratford House and Koininia, partly because the University rules for graduate housing are not as strict as those for undergraduate housing. The Sutton Place constitution provides, however, that graduate students at the University of Illinois shall be given preference for membership at Sutton Place. (Tr. p. 97, Dept. Ex. No. 1AA)

21. The parcel identified as Champaign County Parcel No. 46-21-18-153-013 is improved with a parking lot. This parcel is utilized by the residents of the three houses here in issue, and from Sunday morning until 9:00 PM Sunday evening by those attending University Baptist Church. (Tr. pp. 100 & 101, Appl. Ex. No. 29)

22. The house residents who are assigned parking spaces pay \$160.00 per semester for a parking card. The parking cards do not identify a particular parking space but a general area of the lot. Since the house residents pay for their parking card with their house bill, the parking card, like the house bill, is subject to the various scholarships and student assistance provisions of the applicant. Consequently the parking fees are waived or reduced in cases of need. (Tr. pp. 108-113)

23. There is no charge to persons who park in the lot on Sundays while attending church. There also is no charge to staff persons of the applicant or the church who park in the lot. (Tr. p. 110)

24. The applicant appoints a parking sheriff whose responsibility is to patrol the lot to see that all vehicles have the appropriate sticker. The parking sheriff also puts a warning sheet on vehicles which are not authorized to be parked in the lot. If the offending vehicle is not removed, the parking sheriff has it towed. (Tr. pp. 111 & 112)

25. Two parking spaces in this lot are rented to Inter-Varsity Christian Fellowship, which has offices in the University Baptist Church. The charge for these two spaces is also \$160.00 per semester. (Tr. pp.100 & 101 also 110, Appl. Ex. No. 4)

26. All of the four parcels here in issue are located within the same city block as the University Baptist Church. Due to the large number of students at the University, parking in the area of this block is critical. Consequently, the parcel here in issue which is used for parking, is necessary to the applicant for its housing ministry, as well as its operation of the University Baptist Church. (Tr. p. 103)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 exempts certain property in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . and not leased or otherwise used with a view to profit, is exempt . . . .

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States . . . .

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Based on the foregoing findings of fact, I conclude that the applicant owned the four parcels here in issue during the entire 1994 assessment year.

In view of the purpose clause found in the applicant's Articles of Incorporation, I conclude that the applicant was organized for religious and school purposes. The Illinois Courts have concluded that the character and purpose for which a corporation is organized must be ascertained from its Articles of Incorporation. People v. Wyanett Light Co., 306 Ill. 377 (1922); and also Rotary International v. Paschen, 14 Ill.2d 480 (1958).

I also conclude that the applicant's operation of the University Baptist Church and the student housing ministry were activities which were operated for religious and school purposes.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the

primary use of the property is for charitable purposes. Based on the foregoing findings of fact, I conclude that the applicant met each of the foregoing six guidelines.

In the cases of The Congregational Sunday School and Publishing Society v. Board of Review, 290 Ill. 108 (1919) and also Inter-Varsity Christian Fellowship v. Hoffman, 62 Ill.App.3d 798 (2nd Dist. 1978), the Courts held that not-for-profit corporations organized for religious and charitable purposes and actually operated for religious and charitable purposes, qualified for exemption. It is clear that the applicant is operated for religious purposes since it operates both the University Baptist Church with its various ministries, and the housing ministry. The housing ministry is closely affiliated with the University of Illinois, in view of the fact that the undergraduate houses are certified housing with the University. Also, the by laws of the graduate student's residence, Sutton Place, provide that University of Illinois graduate students shall be given preference. I therefore conclude that the housing ministry parcels are used for school purposes.

I also conclude that since the housing ministry meets all six of the guidelines set forth in the Methodist Old People's Home case, the applicant also qualifies as a charitable organization, using these parcels for charitable purposes.

Concerning Koinonia, since this undergraduate men's residence was under construction on January 1, 1994, and was completed and occupied in September, 1994, at the beginning of the fall semester, I conclude that said parcel was either in the process of adaptation for exempt use or actually used for exempt purposes during the 1994 assessment year. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of



County Collector, 48 Ill.App.3d 580 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987).

Concerning Champaign County Parcel Index No. 46-21-18-153-013, which is used as a parking lot, 35 **ILCS** 200/15-125 provides in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any . . . religious or charitable institution which meets the qualifications for exemption, are exempt.

It is clear from the findings of fact in this matter that this parcel is reasonably necessary to the applicant's religious and charitable activities, in view of the critical parking problems in the area. In Northwestern Memorial Foundation v. Johnson, 141 Ill.App.3d 309 (1st Dist. 1986) the Court held that a parking lot used to provide parking for hospital employees in a congested area was reasonably necessary to the operation of the hospital.

While some of the users of the parcel here in issue are charged \$160.00 per semester to park in the lot, the findings of fact indicate that this charge was waived or reduced in cases of need.

Concerning the two parking places leased to Inter-Varsity Christian Fellowship, in the case of Inter-Varsity Christian Fellowship v. Hoffman, 62 Ill.App.3d 798 (2nd Dist. 1978) the Court held that Inter-Varsity was a religious and charitable organization. In the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), the Supreme Court held that where one exempt entity leases property to another exempt entity, which uses said property for an exempt purpose, the lease will not be considered a lease for profit.

Consequently I conclude that Champaign County Parcel Index No. 46-21-18-153-013 was owned by a religious and charitable organization and used for parking purposes, and not leased for profit during the 1994 assessment year.

Based on the foregoing, I recommend that each of the Parcel Index Nos. listed on Exhibit A, attached to the Notice of Decision in this matter, be exempt from real estate taxation for the 1994 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
July 8, 1997